



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 7, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 7, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

#### Call to Order

Mr. Vincent called the meeting to order.

#### M 078 12 Amend and Approve Agenda

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Agenda by deleting "Approval of Minutes" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea

#### Corre- spondence

Mr. Moore read the following correspondence:

OPEN ARMS FOOD MINISTRY, ELLENDALE, DELAWARE.  
RE: Letter in appreciation of grant.

DUANE CALLOWAY, DIAMOND STATE SWOOP 12U, LAUREL, DELAWARE.  
RE: Letter in appreciation of grant.

**MILLSBORO FIRE COMPANY, MILLSBORO, DELAWARE.**

**RE: Letter in appreciation of the Council's support in 2011 and continued support in the coming year.**

**CHRISTIAN STOREHOUSE, MILLSBORO, DELAWARE.**

**RE: Letter to Community Development and Housing for their efforts in relocating an elderly Sussex County woman from her mobile home, which was uninhabitable.**

**Corre-  
spondence  
(continued)**

**STATE SENATOR GEORGE BUNTING, DOVER, DELAWARE.**

**RE: Letter on school equalization, a statewide reassessment, and a County non-resident tax.**

**JEFFREY S. REED, P.E., CHAIRMAN, AIRPORT ADVISORY COMMITTEE, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's effort in expediting the design and construction of the new aircraft tie-down area.**

Mrs. Deaver announced that she attended a Community Forum sponsored by the Coastal-Georgetown AAUW; the forum was on the impact of the wage differential on women in Delaware. Mrs. Deaver submitted a letter and a flyer providing information on the forum (included in Correspondence).

**Adminis-  
trator's  
Report**

**Mr. Lawson read the following information in his Administrator's Report:**

**1. Delaware Solid Waste Authority Reports**

There were 26,058 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of November and December 2011. Attached are reports received for each month. The total amount of recyclable goods received at the West Complex site during 2011 was 191,696 pounds.

**2. Sussex County Bonds**

Sussex County's General Obligation Refunding Bonds, Series 2012, for \$59,140,000 are expected to be offered on Wednesday, February 8, 2012.

The Sussex County Bonds will be available in \$5,000 denominations.

Citizens seeking more information can contact Wells Fargo Securities, Senior Book Manager, at (866) 287-3221; M & T Securities, Inc., at (302) 651-8644; and RBC Capital Markets at (888) 848-1756.

A complete description of the bonds can be found in the Preliminary Official Statement. An announcement on this bond offer is also running today in The News Journal and Delaware State News.

**Anyone with additional questions may contact Susan M. Webb, Sussex County Finance Director, at (302) 855-7741.**

**[Attachments to the Administrator's Report are not attachments to the minutes.]**

**Wastewater Agreement**      **Hal Godwin, Deputy County Administrator, presented a Wastewater Agreement for the Council's consideration.**

**M 079 12**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Wastewater**      **County Project No. 81-04, Agreement No. 712-1, that the Sussex County**  
**Agreement/**      **Council execute a Construction Administration and Construction**  
**The**      **Inspection Agreement between Sussex County Council, and The Reserves at**  
**Reserves**      **North Bethany, LLC for wastewater facilities to be constructed in The**  
**at North**      **Reserves at North Bethany, formerly Watermark, A/K/A Blue Water –**  
**Bethany**      **Phase 1, located in the North Bethany Expansion of the Bethany Beach**  
      **Sanitary Sewer District.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
      **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
      **Mr. Vincent, Yea**

**Angola**      **Michael Izzo, County Engineer, reported on the Angola by the Bay Project**  
**Neck**      **in the Angola Neck Sanitary Sewer District. The contractor for the project**  
**SSD**      **was George & Lynch and the amount of the contract was \$9,969,309.00.**  
**Contract/**      **Mr. Izzo reported that construction was substantially complete on**  
**Substantial**      **December 17, 2011 and notices have been given to the residents that they**  
**Completion**      **can begin to connect into the sewer district. Mr. Izzo stated that a few**  
      **punch list items remain on the contract which will be cleaned up; however,**  
      **based on the work that has been completed, he recommended that the**  
      **Council grant Substantial Completion for the project.**

**M 080 12**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the**  
**Grant**      **recommendation of the Engineering Consultants and the County**  
**Substantial**      **Engineering Department, that the Sussex County Council grant Substantial**  
**Completion/**      **Completion effective December 17, 2011 for Sussex County Contract 09-25,**  
**Angola**      **Angola Neck Sanitary Sewer District, to George & Lynch and that final**  
**Neck**      **payment be made and any held retainage be released in accordance with the**  
**SSD**      **terms and conditions of the contract documents.**  
**Contract**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
      **Mr. Phillips, Yea; Mr. Wilson, Yea;**

**Mr. Vincent, Yea**

**Inland  
Bays  
Regional  
Wastewater  
Facility -  
Phase 2A/  
Inland  
Bays  
Regional  
Wastewater  
Facility -  
Phase 2A/  
Consultant  
Contract  
(continued)**

**Michael Izzo, County Engineer, presented a proposal for improvements to the Inland Bays Regional Wastewater Facility (IBRWF). He advised that the County was contacted in December 2011 by the Rural Utility Service (RUS) stating that they have the potential for a \$2 million grant; however, there are several caveats: (1) the funds must be used at the IBRWF and (2) the funds must be expended by May 2012.**

**Mr. Izzo outlined the proposed RUS project:**

- **Pre-purchasing and installation of new spray irrigation rigs**
- **Construction of cake storage and equipment storage buildings**
- **Pre-purchasing of solids handling equipment**

**Mr. Izzo advised that the proposed project, using the grant funds, would provide an additional 90 acres of irrigation lands and additional disposal capacity estimated at 0.56 MGD.**

**Mr. Izzo explained the two phases of the project:**

**Phase 1 – (\$2.1 million) Construction must be completed by May 2012. This phase would focus on pre-purchasing dewatering equipment, pre-purchasing irrigation equipment, and getting irrigation up and operation.**

**Phase 2 – (\$2.7 million) This phase would deal with solids handling, construction of sludge dewatering building, aeration lagoon modifications, installation of pre-purchased dewatering equipment, and permitting for new sludge disposal fields. Construction in late 2012.**

**Mr. Izzo reported on the benefits of the project to the County and the benefits for agriculture.**

**Mr. Izzo advised that, in December 2011, the Council directed the Engineering and Finance Departments to pursue grant funding and administer contracts to move forward with the project to purchase equipment to expand irrigation and provide solids handling at the Inland Bays Regional Wastewater Facility.**

**Mr. Izzo noted that, currently, there is ongoing work at the Inland Bays Plant which is expanding the capacity from 1.4 MGD to 2 MGD and going to a higher level of treatment, as required by the Pollution Control Strategies. Currently, the County is using Whitman Requardt and Associates to perform the work. He noted, however, that the Council has indicated their wish to use local engineers; therefore, for the proposed contract, WR&A will perform the work associated with the solids handling and the spray irrigation extension will be performed by a local engineer, Davis, Bowen & Friedel; these two firms will work jointly for a total cost of \$506,676.00. Mr. Izzo noted that this contract will consist of bidding out multiple contracts.**

The Council discussed the proposed project including the portion of the cost that the County will be responsible for (\$2.7 million) and expediting the spray irrigation portion of the project.

**M 081 12**  
**Approve**  
**Contract/**  
**M 081 12**  
**Approve**  
**Contract/**  
**Inland Bays**  
**RWF**  
**(continued)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the Engineering Contract at a cost not to exceed \$506,676.00 to provide services to purchase equipment, expand irrigation and provide solids handling at the Inland Bays Regional Wastewater Facility, contingent upon the approval of the funding agencies.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Old**  
**Business/**  
**C/U**  
**No. 1913**

The Council discussed Conditional Use No. 1913 filed on behalf of Jeremy Smith.

Mr. Cole left the room and did not participate in the discussion or the vote on this application.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on October 27, 2011 at which time they deferred action; on December 8, 2011, the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on November 15, 2011 at which time action was deferred.

**M 082 12**  
**Adopt**  
**Ordinance**  
**No. 2236**  
**(C/U**  
**No. 1913)**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2236 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A YARD WASTE AND COMPOSTING FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.011 ACRES, MORE OR LESS" (Conditional Use No. 1913) filed on behalf of Jeremy Smith with the following conditions:

1. The use shall be limited to an organic yard waste composting facility only. No poultry manure, sludge or other agricultural or solid or liquid wastes shall be accepted at the site. No lumber, stumps, or construction waste shall be accepted at the site.
2. The use shall comply with all DNREC and Sussex Conservation District requirements and permits necessary for the Organic Yard Waste Composting Facility.
3. The Applicant shall install a 20-foot landscaped buffer between the

**M 082 12**  
**Adopt**  
**Ordinance**  
**No. 2236**  
**(C/U**  
**No. 1913)**  
**(continued)**

roadway and the common boundary between the site and Lots 12 through 18 of the Squirrel's Run development. The buffer area shall comply with the requirements for buffers set forth in Section 99-5 of the Sussex County Code. The buffer area shall be shown on the Final Site Plan.

4. As offered by the Applicant, there shall be a 50 foot buffer along the rear of the site.
5. Sales, composting, and processing hours will be limited to 9:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to noon on Saturday. No Sunday hours shall be permitted.
6. There shall be no composting, grinding, processing or mulch storage operations within 300 feet of any neighboring property line. The areas set aside for composting, grinding, and processing shall be shown on the Final Site Plan.
7. The areas set aside for any mulch storage shall be shown on the Final Site Plan. Processed mulch shall be stored in bins as shown on the Final Site Plan.
8. Delivery hours will be limited to 9:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to noon on Saturday, with no Sunday hours. The site shall be gated at the entrance along White's Neck Road so that after-hours deliveries or dumping do not occur.
9. Water shall be available to control dust and for fire prevention within the site.
10. The site shall have one (1) non-illuminated on-premise sign not to exceed 32 square feet per side.
11. Any security lighting shall not shine on neighboring roadways or properties.
12. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.**

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Absent;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

(Mr. Phillips noted that he was not present during the Public Hearing on Conditional Use No. 1913; however, since that time he listened to the recording of the Public Hearing.)

(Mr. Cole was absent during the discussion and vote on Conditional Use No. 1913 as he recused himself from participating in the Public Hearing and the discussion and the vote.)

**Mr. Cole rejoined the meeting.**

**Old**  
**Business/**  
**Proposed**

**The Council discussed the Proposed Ordinances amending Chapter 26 and Chapter 29 of the Sussex County Code relating to disability benefits for Sussex County employees.**

**Ordinances**

**Relating  
to Disability  
Benefits**

Karen Brewington, Director of Human Resources, reported that on December 13, 2011, two draft ordinances were discussed and introduced for Council's consideration; one ordinance corrects a typographical error in Ordinance No. 2223 and authorizes disabled employees under Sussex County's short-term disability plan to accrue holiday time, if applicable. The second ordinance amends current County Code and extends survivor's benefits from an approved Sussex County Long Term Disability Plan. On January 10, 2012, the Council held Public Hearings on both Proposed Ordinances. At the close of the Public Hearings, the Council voted to defer action and to leave the record open on both ordinances until the Personnel Board made its recommendation on the two ordinances. On January 31, 2012, the Personnel Board convened and after its Public Hearing, voted to recommend approval of the two Proposed Ordinances.

**Proposed  
Ordinances  
Relating  
to Disability  
Benefits  
(continued)**

**M 083 12  
Adopt  
Ordinance  
No. 2237  
(Disability  
Benefits  
Ordinance)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2237 entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES"

**Motion Adopted:** 5 Yeas.

**Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea

**M 084 12  
Adopt  
Ordinance  
No. 2238  
(Disability  
Benefits  
Ordinance)**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2238 entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES".

**Motion Adopted:** 5 Yeas.

**Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea

**Grant  
Requests**

Mrs. Webb presented grant requests for the Council's consideration.

**M 085 12  
Community  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$2,500.00 (\$1,250.00 each from Mr. Vincent's and Mr. Phillips' Community Grant Accounts) to Laurel Little League for operating costs.

**Motion Adopted:** 5 Yeas.

**Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea

**Tom Pederson was in attendance to present the grant request from Cape Crusader Basketball Club.**

**M 086 12**      **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give**  
**Community**      **\$1,250.00 (\$250.00 from each Community Grant Account) to the Cape**  
**Grant**            **Crusader Basketball Club for operating costs.**

**M 086 12**      **Motion Adopted:      5 Yeas.**  
**(continued)**      **Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                              **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                              **Mr. Vincent, Yea**

**M 087 12**      **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give**  
**Community**      **\$200.00 (\$100.00 each from Mr. Vincent's and Mr. Phillips' Community**  
**Grant**            **Grant Accounts) to the Congressional Youth Leadership Council for**  
                              **Jerrica Robertson's conference expenses.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                              **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                              **Mr. Vincent, Yea**

**M 088 12**      **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give**  
**Community**      **\$2,500.00 from Mr. Phillips' Community Grant Account to the Gumboro**  
**Grant**            **Community Center for baseball/softball field additions.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                              **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                              **Mr. Vincent, Yea**

**Public**            **A Public Hearing was held on a Proposed Resolution entitled**  
**Hearing/**        **"RESOLUTION APPROVING AGREEMENT TO PROVIDE FIRE**  
**Resolution**      **FIGHTING SERVICES AND APPROVING ISSUANCE OF CERTAIN**  
**Approving**      **BONDS OR NOTES BY THE ELLENDALE VOLUNTEER FIRE**  
**Agreement/**     **COMPANY, INC."**  
**Ellendale**

**Volunteer**      **Mrs. Webb explained that the Ellendale Volunteer Fire Company provides**  
**Fire**              **firefighting services to a specific area within Sussex County and the Fire**  
**Company**        **Company and the County would like to formalize such arrangement by**  
                              **entering into the Agreement to provide firefighting services. The Fire**  
                              **Company proposes to issue up to \$1,600,000 of bonds or notes of the Fire**  
                              **Company to (1) finance or refinance the costs to construct a fire substation**  
                              **on property located at 8751 N. Old State Road in Lincoln, an**  
                              **unincorporated area of Sussex County and (2) pay issuance costs associated**  
                              **therewith. It is the intent of the Fire Company that the interest on the**  
                              **Bonds qualify for exclusion from gross income of the owners thereof for**



**Public  
Hearing/  
Resolution  
Approving  
Agreement/  
Ellendale  
Volunteer  
Fire  
Company  
(continued)**

federal income tax purposes pursuant to Internal Revenue Code. Pursuant to the Code, interest on the Bonds will not qualify for exclusion from gross income of the owners thereof for federal income tax purposes unless the issuance of the bonds is approved by the applicable elected representative of a governmental unit with which the Fire Company has entered into an agreement, after a public hearing to consider the issuance of the Bonds has been conducted, following reasonable public notice. Mrs. Webb advised that the Fire Company declares its intent to use tax-exempt bonds to finance the capital costs of the Project; the maximum principal amount of the tax-exempt bonds is expected to be \$1,600,000. These bonds shall be an obligation of the Fire Company and shall never be a debt of the County; the County shall not be liable for any payment on such bonds. The County's approval of the issuance of the Fire Company bonds will have no fiscal impact on the County.

George Smith, Attorney for the Ellendale Fire Company, and Aaron Moore of the Ellendale Fire Company, were in attendance and presented information on the project. Aaron Moore stated that they propose the construction of a 9,000 square foot building on County Road 213 in Lincoln. The building will have 6 bays to house fire company apparatus and living quarters for the crews (for storms, etc.). The purpose of the project is to provide better protection to the residents in the area. Mr. Moore stated that they have already started construction and that approvals have been received from the Office of Planning and Zoning and the Fire Commissioner.

There were no public comments and the Public Hearing was closed.

**M 089 12  
Adopt  
R 005 12**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Resolution No. R 005 12 entitled "RESOLUTION APPROVING AGREEMENT TO PROVIDE FIRE FIGHTING SERVICES AND APPROVING ISSUANCE OF CERTAIN BONDS OR NOTES BY THE ELLENDALE VOLUNTEER FIRE COMPANY, INC."

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Ordinances  
Regarding  
Electronic  
Message  
Display  
on Off-**

A Public Hearing was held on the Proposed Ordinances entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY REGARDING ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS" and "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY TO PROHIBIT ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS".

The Planning and Zoning Commission held a Public Hearing on both

**Premises Signs**                      **Proposed Ordinances on January 12, 2012 at which time action was deferred. On January 26, 2012, the Commission deferred action again.**

**Public Hearing/ Proposed Ordinances Regarding Electronic Message Display on Off-Premises Signs**                      **Lawrence Lank, Director of Planning and Zoning, and Vince Robertson, Assistant County Attorney, summarized the two Proposed Ordinances. Mr. Robertson stated that one of the Proposed Ordinances is a prohibition against electronic message displays on off-premises signs. Mr. Robertson explained that an off-premises sign is a sign/billboard on a property that advertises a business that is not located on that property; an on-premises sign/billboard is located on an owner's property that advertises that owner's business. Mr. Robertson stated that the second Proposed Ordinance would permit an electronic message display if it is approved by the Board of Adjustment as part of a Special Use Exception; procedurally, this would work as follows: an applicant would file for a Special Use Exception for the billboard and then as part of that, apply for a Special Use Exception for the electronic message display.**

**Mr. Robertson read a summary of the Commission's Public Hearing on the Proposed Ordinances.**

**(continued)**                      **(See the minutes of the Planning and Zoning Commission dated January 12 and 26, 2012.)**

**Mr. Robertson stated that electronic message displays are permitted on on-premises signs in certain zoning districts; that DelDOT, per Delaware Code, Title 17, has references to similar signs; and that if the Ordinance Amendment is approved, the public will be allowed to participate in the public hearing process before the Board of Adjustment for the Special Use Exceptions requested. It was noted that as part of a Special Use Exception, the billboard would have to be located on commercially zoned property.**

**In response to questions, Mr. Robertson stated that the proposal does not include the grandfathering of existing signs with electronic message displays.**

**Mr. Robertson stated that DelDOT has regulations for off-premises signs (Delaware State Code, Title 17, in the section entitled Byways).**

**A report entitled "Beyond Aesthetics: How Billboards Affect Economic Prosperity" prepared by Jonathan Snyder was previously provided by Councilwoman Joan Deaver. A copy of the report was distributed to all of the Councilmembers.**

**Public comments were heard.**

**Dan Kramer stated the County claims it is business-friendly, which is not true or the County would not require someone to go through a costly process to get a billboard; that he agrees there should be regulations on electronic message signs, i.e. the number of times it changes and flashes;**

that it used to be a given that if a person had commercial land, a billboard was allowed; and that this proposal would be costly to businesses.

David Hutt, Attorney with Wilson, Halbrook & Bayard, P.A., was present representing several owners of commercial properties in support of the Proposed Ordinance regarding permitting electronic message display on off-premises signs. He stated that, in accordance with the Sussex County Code, the signs/billboards would only be allowed on commercially zoned property and with a Special Use Exception.

Public  
Hearing/  
Proposed  
Ordinances  
Regarding  
Electronic  
Message  
Display  
on Off-  
Premises  
Signs  
(continued)

Mr. Hutt presented information included in a booklet of information which was distributed to the Councilmembers, including an overview of digital billboards, the regulatory framework, traffic safety, features of LED billboards, measurements and calculations for lighting, DelDOT regulations, and technical requirements. Mr. Hutt referenced some of DelDOT's requirements including that signs have to be fixed for at least 10 seconds, which is more restrictive than the County's sign ordinance (8 seconds); that the message has to change in a second or less with everything moving simultaneously; distances between variable signs must be 2,500 feet; the sign must be designed to freeze in one position if a malfunction occurs or it must shut down; there cannot be any flashing lights or flashing displays that mimic road directions and safety standards; a variable message sign must appropriately adjust display brightness as ambient light levels change; cannot attempt to direct the movement of traffic; and placement along Delaware Byways.

Mr. Hutt noted that, in regards to the comments made by the opposition at the Public Hearing before the Commission, there seems to be two primary concerns – brightness and safety. He stated that the signs being referenced by the opposition are existing on-premise signs; that a permit from DelDOT is not required for on-premise signs; that on-premise signs are permitted to have electronic message displays in certain zoning districts; that a public hearing is not required for an on-premise sign – only a permit from the Office of Planning and Zoning; and that the Ordinance Amendment requires that an off-premise sign application that includes an electronic message display shall be so advertised.

Mr. Hutt introduced Darren Friskney, who is a representative of a company (Watchfire) in Illinois that manufactures billboards, who presented technical information relating to electronic message signs.

Mr. Cole questioned if the Board of Adjustment will have minimum standards to consider for the approval of Electronic Message Displays on off-premises signs. Mr. Lank responded that the Proposed Ordinance references the technical requirements/design criteria for on-premises electronic message displays, i.e. size, lighting, and setback (which, if the Proposed Ordinance is approved, would also apply to off-premises electronic message displays). Mr. Cole questioned if the on-premises standards would be appropriate for off-premises standards and he stated

that the Commission and Council may need to consider these requirements/criteria in comparison with DelDOT regulations.

Additional public comments were heard.

Public  
Hearing/  
Proposed  
Ordinances  
Regarding  
Electronic  
Message  
Display  
on Off-  
Premises  
Signs  
(continued)

Andrew Timmons of Ocean View spoke in support of digital billboards and he stated that outdoor billboards are part of a marketing plan that helps in the sale of homes as it generates a significant increase in traffic through their sales center; that Electronic Message Displays offer custom tailored advertising for seasonal sales and provides the opportunity for up-to-date advertising; that static billboards can become obsolete as soon as they are put up; that the proposal would provide an avenue for notifying the public of important information/notifications such as community messages and notifications from Homeland Security; and that Electronic Message Displays are expensive to build and a certain amount of traffic per day is needed to justify the expense of the sign.

Laura Ritter of AAA Storage, LP in Nassau spoke in support of the Ordinance Amendment and she stated that this will allow progress without growth; that existing billboard structures may be upgraded as a result of this Ordinance Amendment; that billboards are now cost-prohibitive; that the proposal would allow the renting of billboards for a short period of time by many companies wishing to advertise; that digital billboards would allow existing businesses a lot of flexibility in their advertising; that the proposal will help small businesses; that digital billboards could serve as an immediate method of notification to drivers in hazardous conditions or at times of road obstacles; that they can also be used to notify the public of missing children or other critical events; that the Federal Highway Administration has already given the go ahead for digital billboards; and that studies have shown that digital billboards do not have a negative impact on traffic safety. Ms. Ritter submitted her comments (with attachments) in writing, which were made a part of the record.

Lynn Rogers of Rogers Sign Company in Milton spoke in support of the Proposed Ordinance Amendment and he reviewed the history of sign regulations in Sussex County; he reviewed the State's/DelDOT's sign regulations; and he asked that the Council not confuse on-premises signs with off-premises signs. Mr. Rogers stated that there are very few billboard structures in Sussex County that can hold the weight of an Electronic Message Center and therefore, engineering is a very important part of it, i.e. amount of concrete and the depth of the poles. Mr. Rogers stated he recommends the Proposed Ordinance in a form but noted that there are some things that need to be looked at and added into it, such as engineering of steel structures to hold the weight.

There were no additional public comments and the Public Hearing was closed.

**Defer  
Action on  
Proposed  
Ordinances/  
Off-  
Premises  
Signs  
M 090 12  
(continued)**      **on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY REGARDING ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS” and “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY TO PROHIBIT ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS”, and to close public comments.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**There was no Additional Business.**

**M 091 12  
Go Into  
Executive  
Session**      **At 12:24 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to go into Executive Session for the purpose of discussing issues pertaining to Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**      **At 12:25 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues pertaining to Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition.      The Executive Session concluded at 12:54 p.m.**

**M 092 12  
Reconvene  
Regular  
Session**      **At 12:56 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Executive  
Session  
Items**      **Mr. Moore announced that two issues were discussed in Executive Session relating to potential land acquisition and potential litigation; no action was required.**

**M 093 12  
Recess**      **At 12:57 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to recess until 1:30 p.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 094 12 At 1:35 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver,  
Reconvene to reconvene the Regular Session.**

**M 094 12 Motion Adopted: 5 Yeas.**

**(continued)**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public Hearing (C/U No. 1919) A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A THERAPY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.397 ACRES, MORE OR LESS” (Conditional Use No. 1919) filed on behalf of Dr. Kerri Kennard.**

**The Planning and Zoning Commission held a Public Hearing on this application on January 12, 2012 at which time the Commission recommended that the application be approved with conditions.**

**See the minutes of the meeting of the Planning and Zoning Commission dated January 12, 2012.**

**Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.**

**Copies of letters in support of the application were distributed to the Council.**

**Dr. Kerri Kennard (a neuro-psychologist) and Terry Scott were present on behalf of the application and they stated that Dr. Kennard has operated a private practice in Seaford, Delaware over the last 15 years; that she sees mostly children and adolescents with emotional issues; that her therapy office is located in a very small office and it does not afford them to see families; that the proposed use is a home with an existing office; that moving to this location would allow her to expand her services to the children in the community; that the site has existing parking and lights; that she does not see high risk children or children with drugs and alcohol problems nor does she see sexual perpetrators; that she has a low-key business; that their practice serves the Indian River School District and the Laurel School District; that they have four counselors that evaluate the children and teens in their schools and at their residences; and that the site has been well taken care of and they do not have any plans for any**

construction on the site.

Public comments were heard.

Beverly Smith, the original owner of the property, spoke in support of the application and she stated that her father had a business on the site for over 60 years.

**M 095 12  
Adopt  
Ordinance  
No. 2239  
(C/U  
No. 1919)**

There were no additional comments and the Public Hearing was closed.

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2239 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A THERAPY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.397 ACRES, MORE OR LESS” (Conditional Use No. 1919) filed on behalf of Dr. Kerri Kennard, with the following conditions:

1. The use shall be as a therapy office.
2. Parking shall comply with the parking requirements in the County Zoning Code.
3. One unlighted sign, not to exceed 32 square feet per side, shall be permitted.
4. The hours of operation shall be from 9:00 a.m. to 7:00 p.m., Monday through Saturday, with emergency hours as needed.
5. Any security lighting for the office and its parking areas shall be downward screened so that it does not shine on neighboring properties or roadways.
6. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
C/U  
No. 1920**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE GARAGE FOR TRUCKS AND EQUIPMENT AND A PARKING AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.35 ACRES, MORE OR LESS” (Conditional Use No. 1920) filed on behalf Collins 54, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 12, 2012 at which time action was deferred; on

**January 26, 2012, the Commission recommended that the application be approved with conditions.**

**See the minutes of the meeting of the Planning and Zoning Commission dated January 12 and 26, 2012.**

**Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing.**

**Public  
Hearing/  
C/U  
No. 1920  
(continued)**

**The Council found that James Fuqua, Attorney, was present with Carroll Brasure. They stated that Brasure's Pest Control operates their business from the adjoining parcel; that the adjoining parcel is improved with an office building and storage garages for the pest control business; that it is the intent of the Applicants to expand the pest control business by building a 29' by 168' storage building/garage for storage of Brasure's service vehicles and equipment and parking for employees vehicles; that there is an existing well on the site; that there are no restroom facilities proposed on the new site; that there are restroom facilities in the office building on the adjacent site; that the entrance will be the existing entrance from County Road 389 and there will be no new entrance from Route 54; that the existing entrance to Brasure's Pest Control will be used as the entrance for this site and there will be a driveway providing access from the existing Brasure site by a driveway; that business hours are from 6:00 a.m. to 7:00 p.m.; that security lighting will be screened so that they do not shine onto neighboring properties or roadways; that there will be no outside storage of equipment or materials; that no bulk chemical storage will take place on the site; that there is adequate space available on this site for employee parking; that the business has existed for 40 years and has approximately 32 employees; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan; that legal standards require that a Conditional Use be of a public or semi-public character; that the use is an expansion of an existing use; that the use is not out of character since it is adjacent to a business and since other non-residential uses already exist in the area; that the proposed building will be similar in appearance to the existing buildings on the adjacent site; that there should be no adverse impact on the area with the conditions proposed; that the Applicant received two letters in support; that the old house on the property has been removed; that signage will be minimal; and that they will comply with all Sussex Conservation District requirements.**

**Mr. Fuqua submitted proposed conditions and Findings of Fact.**

**Mr. Moore stated that, currently, the Applicant has unity of ownership, with the same people owning the LLC and the property subject to this Conditional Use application. Mr. Moore questioned if there is going to be some kind of cross-easement onto the subject property in the event that it is ever sold to a third party. Mr. Fuqua stated that they have not done that but acknowledged that it is a good suggestion and should be done.**

**There were no public comments and the Public Hearing was closed.**



**M 096 12  
Adopt  
Ordinance  
No. 2240  
(C/U  
No. 1920)**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2240 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE GARAGE FOR TRUCKS AND EQUIPMENT AND A PARKING AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.35 ACRES, MORE OR LESS” (Conditional Use No. 1920) filed on behalf Collins 54, LLC, with the following conditions:**

**M 096 12  
Adopt  
Ordinance  
No. 2240  
(C/U  
No. 1920)  
(continued)**

- 1. The use shall be for vehicle and equipment storage inside the storage building and outside parking of employee vehicles. No other outside storage shall be permitted.**
- 2. Any security lights shall be screened so that they do not shine on neighboring properties.**
- 3. No chemicals or other hazardous materials shall be stored on the premises, except those chemicals normally found on the vehicles.**
- 4. One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.**
- 5. The Final Site Plan shall indicate all parking spaces and driveway areas.**
- 6. As stated by the Applicant, access shall be via the existing entrance to Brasure’s Pest Control from Road 389 with an internal driveway to the site.**
- 7. Any dumpsters or trash receptacles utilized on the site shall be screened from neighboring properties or roadways.**
- 8. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 097 12  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn at 2:05 p.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

**Robin A. Griffith**

**Clerk of the Council**



